

BEFORE THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

STATE OF CALIFORNIA

In the Matter of:	)	OAH No. N2000090169
	)	
C. HAMMOND CONSTRUCTION, INC., a	)	AGENCY NO. 2000-57AC
	)	
California Corporation, PROPERTY OWNER	)	WTF No. 07-TI-0903
	)	
	)	
RE: MCCOSKER WASTE TIRE SITE	)	

## ADMINISTRATIVE DECISION PURSUANT TO STIPULATION

Pursuant to that certain "Stipulation for Issuance of Administrative Decision" dated November \_\_\_, 2000, entered into by and between Complainant CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD (the "CIWMB") and Respondent C. HAMMOND CONSTRUCTION, INC., a California Corporation, and good cause appearing therefore, the following Stipulated Factual Findings and Conclusions of Law are made, and the following Stipulated Order is issued:

## STIPULATED FACTUAL FINDINGS

1. The CIWMB has authority to inspect, permit, regulate and conduct enforcement actions against Waste Tire Facilities (WTFs) within the State of California under PRC section 42800 et seq. and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).

2. C. HAMMOND CONSTRUCTION, INC., a California Corporation, Property Owner, was responsible for the waste tires which had been stored at 716 West Gertrude Avenue (APN# 408-160-036), Richmond, California. During the period waste tires were on site, the site was not a permitted WTF.

1           3.       On November 18, 1998, Keith Cambridge and Amalia Fernandez of the CIWMB  
2 conducted a waste tire facility inspection of the MCCOSKER WASTE TIRE SITE and  
3 documented violations of Title 14 CCR sections 17351 - Fire Prevention Measure, 17352 –  
4 Facility Access and Site Security, 17353 - Vector Control Measure, 17354 - Waste Tire Storage  
5 Standards, and 18423 - Filing of Waste Fire Facility Application. (Note: Access to the rear of  
6 the property was restricted and the inspectors could only verify that approximately 4,000 waste  
7 tires were on site from the front gate)

8           4.       A "Letter of Violation" dated November 30, 1998, was addressed and posted by  
9 U.S. Mail by Keith E. Cambridge, CIWMB to Marian McCosker, Property Owner of the  
10 MCCOSKER WASTE TIRE SITE requesting that a Corrective Action Plan (Plan) be submitted  
11 to the CIWMB by December 31, 1998. This letter states that the site is violating Title 14 CCR  
12 Sections 17351, 17352, 17353, 17354, and 18423. The Inspection Report accompanying this  
13 letter further documents that the site owner is storing more than 4,000 waste tires on site.  
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15           5.       A letter dated December 3, 1998 was sent by Ms. McCosker and received at the  
16 CIWMB informing Mr. Cambridge that the subject property was being sold to CHRIS  
17 HAMMOND, PRESIDENT OF C. HAMMOND CONSTRUCTION, INC.

18           6.       A "Letter of Violation" dated March 5, 1999, was addressed and posted by U.S.  
19 Mail by Keith E. Cambridge, CIWMB to CHRIS HAMMMOND, PRESIDENT OF C.  
20 HAMMOND CONSTRUCTION, INC., who was now representing himself as the new Property  
21 Owner of the MCCOSKER WASTE TIRE SITE. In this "Letter of Violation", a Corrective  
22 Action Plan (Plan) was being requested for submittal to the CIWMB by April 15, 1999.

23           7.       On August 10, 1999, Keith Cambridge and Cody Begley of the CIWMB  
24 conducted a site visit of this location and determined that more than 50,000 waste tires were  
25 located on site (Note: the increase in the quantity of waste tires was due to the fact that the  
26 inspectors were finally able to gain access to the rear of the site where all the tires had been  
27 collected).  
28

8. Clean Up & Abatement Order No. 99-98 dated September 16, 1999, was issued by CIWMB to C. HAMMOND CONSTRUCTION, INC., CHRIS HAMMOND, PRESIDENT, requesting that C. HAMMOND CONSTRUCTION, INC. remove all waste tires from the location by December 31, 1999. Copies of destination receipts and Waste Tire Manifests were to be submitted to the CIWMB on or before January 7, 2000.

9. A letter dated January 3, 2000 was mailed by Clifford Hammond, Project Operations, of C. HAMMOND CONSTRUCTION, INC. to the CIWMB requesting a time extension of Clean Up & Abatement Order No. 99-98. C. HAMMOND CONSTRUCTION, INC. requested an extension until June 31, 2000 (inaccurate date) be granted for the removal of the remaining tires. Accompanied in this letter were manifests showing the removal of approximately 26,000 tires from the site.

10. An Extension Letter dated January 11, 2000 was addressed and posted by U.S. Mail by Byron Fitzgerald, Acting Deputy Director of the CIWMB's Special Waste Division to CHRIS HAMMOND, PRESIDENT OF C. HAMMOND CONSTRUCTION, INC. In this letter, an Extension to Clean Up & Abatement Order No 99-98 was granted until June 30, 2000.

11. On June 21, 2000, Keith Cambridge and Cody Begley of the CIWMB conducted a site visit of this location and determined that more than 25,000 waste tires were still located on site. C. HAMMOND CONSTRUCTION, INC. subsequently advised that the site was fully remediated on August 31, 2000. On September 7, 2000, Keith Cambridge of the CIWMB conducted a site visit of this location and affirmed that the site was now fully remediated.

## STIPULATED CONCLUSIONS OF LAW

12. C. HAMMOND CONSTRUCTION, INC., operator and property owner violated Title 14 CCR Section 18420, which requires that the operator of a WTF obtain a Permit from the CIWMB. During the period waste tires were on site, C. HAMMOND CONSTRUCTION, INC. did not have a Permit issued by the CIWMB.

1           13.     C. HAMMOND CONSTRUCTION, INC. violated Title 14 CCR Section 17351 -  
2 - Fire Prevention Measures, which list specific equipment and water supply that must be  
3 available at a WTF. During the period waste tires were on site, C. HAMMOND  
4 CONSTRUCTION, INC. did not have the equipment or water supply on site required by this  
5 section.

6           14.     C. HAMMOND CONSTRUCTION, INC. violated Title 14, CCR Section 17353 -  
7 - Vector Control Measures, which lists requirements for the prevention of breeding and  
8 harborage of mosquitoes, rodents and other vectors at a WTF. During the period waste tires were  
9 on site, C. HAMMOND CONSTRUCTION, INC. had not complied with these requirements.  
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11           15.     C. HAMMOND CONSTRUCTION, INC. violated Title 14 CCR Section 17354 -  
12 - Storage of Waste Tires, which lists the requirements for the safe storage of waste tires at a  
13 WTF. During the period waste tires were on site, C. HAMMOND CONSTRUCTION, INC. had  
14 not complied with these requirements.

15           16.     C. HAMMOND CONSTRUCTION, INC. violated Clean Up & Abatement Order  
16 No. 99-98, issued to him by the CIWMB on September 16, 1999. Clean Up & Abatement Order  
17 No. 99-98 directed C. HAMMOND CONSTRUCTION, INC. to remove all waste tires by  
18 December 31, 1999. Copies of destination receipts and Waste Tire Manifests were to be  
19 submitted to the CIWMB on or before January 7, 2000. An Extension Letter to this Order, dated  
20 January 11, 2000, allowed until June 30, 2000 for the complete removal of waste tires from the  
21 site. C. HAMMOND CONSTRUCTION, INC. did not comply with these requirements.

22           17.     HAMMOND CONSTRUCTION, INC. is liable for civil penalties as set forth in  
23 Public Resources Code section 42850 (b). Under this section, liability may be imposed in an  
24 administrative action.

25           18.     The CIWMB's authority to assess civil penalties against C. HAMMOND  
26 CONSTRUCTION, INC., Property Owner, is set forth in PRC section 42850, which states:

27                    "Any person who negligently violates any provision of this chapter, or any permit,  
28                    rule, regulation, standard, or requirement issued or adopted pursuant to this  
                      chapter is liable for a civil penalty of not less than five hundred dollars (\$500) or

1 more than five thousand dollars (\$5,000) for each violation of a separate provision  
2 or, for continuing violations, for each day that violation continues."

3 Under this section, C. HAMMOND CONSTRUCTION, INC., as Operator and Property Owner  
4 of MCCOSKER WASTE TIRE SITE TIRE, is subject to a separate civil penalty of not less than  
5 \$500 or more than \$5,000.00 for each day the MCCOSKER WASTE TIRE SITE TIRE is in  
6 violation of each requirement listed above.

7  
8 19. In setting an appropriate civil penalty, the CIWMB has taken into consideration  
9 the nature, extent and gravity of the violations, and the complete disregard of applicable statute  
10 and regulation on C. HAMMOND CONSTRUCTION, INC.'s behalf.

11  
12 **ADMINISTRATIVE DECISION BASED UPON STIPULATED FACTUAL FINDINGS**  
13 **AND STIPULATED CONCLUSIONS OF LAW**

14 Pursuant to the Stipulated Factual Findings and Stipulated Conclusions of Law, and good  
15 cause appearing therefore, the following Administrative Decision is hereby issued in this  
16 proceeding:

17 Respondent C. HAMMOND CONSTRUCTION, INC. shall pay a monetary penalty of  
18 Forty-Nine Thousand, Three Hundred and Sixty Dollars (\$49,360.00) to the California Integrated  
19 Waste Management Board. Respondent C. HAMMOND CONSTRUCTION, INC. shall pay  
20 interest at the legal rate, plus reasonable attorney's fees and other costs of collection,  
21 commencing on the date the CIWMB converts this Decision into a Judgment.

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23 Dated: January 5, 2001

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CHERYL TOMPKIN  
27 Administrative Law Judge  
28 Office of Administrative Hearings